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May 22, 2020

SO ORDERED.

A handwritten signature in blue ink, appearing to read "Naomi Reice Buchwald".

NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

BYECF

Honorable Naomi Reice Buchwald
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: Seife v. U.S. Dep't of Health & Human Services, 18-cv-11462-NRB

Dated: May 22, 2020

Dear Judge Buchwald:

We represent plaintiffs in the above-captioned action arising under the Administrative Procedure Act, and respectfully submit this letter with the consent of counsel for defendants to jointly request a 30-day extension of the deadline for plaintiffs to file a fees motion pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, from May 26, 2020, to June 25, 2020.

EAJA authorizes the award of both costs and fees to a "prevailing party" in proceedings against officials of the United States for judicial review of agency action. *See* 28 U.S.C. § 2412(d)(1)(A). Plaintiffs brought this civil action against the Department of Health and Human Services, the Food and Drug Administration, the National Institutes of Health, and the heads of those agencies in their official capacities. On February 24, 2020, this Court granted in part plaintiffs' motion for summary judgment and declared defendants' interpretation of the FDAAA Final Rule contrary to statute. Pursuant to EAJA, the current deadline for plaintiffs to submit a fees motion is May 26, 2020—the first business day thirty days after this Court's order became non-appealable on April 24, 2020.

Plaintiff Charles Seife is seeking fees in this case and the parties are in the process of attempting to resolve the fees issue without the need for further litigation. The parties respectfully request a thirty-day extension so that they may continue their efforts. This is the parties' first request for an extension of this deadline.

We thank the Court for its consideration of this request.

Respectfully submitted,

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/s/ David Schulz

David Schulz
Christopher Morten
Simon Brewer, law student intern
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Honorable Naomi Reice Buchwald
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cc: Jennifer Jude, Assistant U.S. Attorney (by ECF)